

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. (This is a GIL).

March 20, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 5, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

The purpose of this letter is to request a 'Private Letter Ruling.'

During a recent audit of our sales tax, an issue was brought up regarding how we handle sales tax for freight. Although the auditor decided not to pursue the issue after conferring with his supervisor he still felt we should obtain a ruling so that in future audits this issue would be clarified. The facts pertaining to this issue are as follows.

- ◆ COMPANY is a Company specializing in purchasing, warehousing and inventory control of forms for our customers.
- ◆ We are not a printer; therefore, all printing is brokered out to independent printers.
- ◆ Since we are in the printing industry the majority of forms purchased for our customers are custom forms and are taxed at 50%.
- ◆ Upon approval from our customer we will issue an order for their custom form to be produced and delivered to our warehouse.
- ◆ When we receive the printed products, our printing vendor will issue an invoice to us for the finished product. This invoice will contain an amount for freight charges from the printer to our warehouse if the printer prepays the freight charges; otherwise the trucking firm will invoice us direct for the freight charges. We then, in turn, invoice our customer (see attached copy). The sales tax is computed on the printed product only and does not include freight. The freight charges are a direct pass through to our customer so that what we pay for freight is what we bill our customer.

- ◆ Our contention is that state sales taxes do not extend to the taxation of services, which includes transportation charges from the manufacturer to our customer.
- ◆ Even though the finished product is delivered to our warehouse, we feel we are only an extension of our customer's warehouse
- ◆ We do not separately charge our customers for any deliveries from our warehouse to their locations as this cost is built into the cost of the form.

Hopefully this will give you enough information regarding how we handle freight and the reasoning for not taxing the freight charges. If not, please contact me at your convenience requesting the additional information you need.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or transportation charges in general, are not taxable if it can be shown that they are both separately contracted for and that such charges are actually reflective of the costs of shipping. In these circumstances, to the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. As indicated above, charges termed "delivery" or "transportation" charges follow the same principle.

The best evidence that shipping and handling or delivery charges have been contracted for separately by purchasers and retailers are separate contracts for shipping and handling or delivery. However, documentation that demonstrates that purchasers had the option of taking delivery of the property, at the sellers' location for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice. If retailers charge customers shipping and handling or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess amount is subject to tax.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. See subsection (d) of Section 130.415. If the retailer charges a customer shipping and handling or delivery charges that exceed the retailer's cost of providing the transportation or delivery, the excess amount is subject to tax.

As we understand the circumstances you have described, you do not bill your customers for freight from you to them, instead you pass along your incoming freight charges. In this situation, you are not separately contracting with your customer for freight charges. You are passing your freight charges from your supplier on to your customer. Costs such as these are costs of doing business and are includable in your gross receipts subject to tax. See Section 130.415(e) and Section

130.410. Therefore, when you calculate your Service Occupation Tax liability on 50% of your entire bill, the charges for freight should be included.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.